

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

MICHAEL EDEN and
ELIZABETH A. EDEN,

Plaintiffs,

v.

CIVIL ACTION NO. 1:22-00236

JOSEPH CAR TRANSPORT, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is the parties' joint motion to extend the scheduling order in this matter. (ECF No. 83.) For good cause shown, that motion is **GRANTED**, and it is hereby **ORDERED** as follows:

1. Expert witnesses: The party bearing the burden of proof on an issue shall make the disclosures of information required by Fed. R. Civ. P. 26(a)(2)(A) and (B) for that issue to all other parties or their counsel no later than June 30, 2023. The party not bearing the burden of proof on an issue shall make the disclosures required by Fed. R. Civ. P. 26(a)(2)(A) and (B) for that issue to all other parties or their counsel no later than August 11, 2023. Rebuttal expert disclosures must be made no later than August 21, 2023.

2. Discovery: The parties shall complete all discovery depositions by September 12, 2023. The last date to complete

depositions shall be the "discovery completion date" by which all discovery, including disclosures required by Fed. R. Civ. P. 26(a)(1)(2), but not disclosures required by Fed. R. Civ. P. 26(a)(3), should be completed.

3. Dispositive motions: All dispositive motions, except those under Rule 12(b), together with depositions, admissions, documents, affidavits or other exhibits, and a memorandum in support of such motions shall be filed by September 26, 2023, with responses and replies due thereafter in accordance with the Local Rules.

4. Settlement meeting and Rule 26(a)(3) disclosures:

(a) Settlement meeting. No later than October 17, 2023, counsel and unrepresented parties shall meet to conduct settlement negotiations. Lead trial counsel for plaintiff shall take the initiative in scheduling such meeting; all other counsel shall cooperate in the effort to achieve a successful negotiation and settlement. Counsel and unrepresented parties must be prepared at the pretrial conference to certify that they tried in their meeting to settle the case.

(b) Rule 26(a)(3) disclosures. If the case is not settled at the meeting, and if there is no order or stipulation to the contrary, counsel and unrepresented parties shall make all Rule 26(a)(3) disclosures at the meeting.

5. Motions in Limine. All motions in limine shall be filed and served by October 24, 2023, with responses due by October 31, 2023.

6. Proposed integrated pretrial order: Plaintiff will submit its portion of the pretrial order to defendants no later than October 19, 2023. The parties shall prepare and file a proposed integrated pretrial order no later than October 26, 2023. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Rule 16.7(b).

7. Pretrial conference: A final pretrial conference shall be held at 3:30 p.m. on November 13, 2023, in Bluefield, at which unrepresented parties and lead trial counsel for represented parties shall appear, fully prepared to discuss all aspects of the case. Individuals with full authority to settle the case for each party shall be present in person or immediately available by telephone.

8. Pretrial order: Following the pretrial conference, the judicial officer shall enter a final pretrial order, which shall be modified only to prevent manifest injustice.

9. Proposed charge to the jury: No later than November 30, 2023, counsel and unrepresented parties shall submit to the judicial officer proposed jury instructions in narrative or

charge form on substantive theories of recovery or defense, on damages, and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case. The proposed instructions shall be exchanged by counsel and unrepresented parties prior to their submission to the judicial officer. Unless ordered by the judicial officer, such submissions shall not be filed and made a part of the record. The parties shall also provide a copy of the instructions to the court in Word compatible format.

10. Final settlement conference: A final settlement conference, attended by all unrepresented parties and by lead trial counsel for each represented party, shall be held at 10:30 a.m., on December 4, 2023, in Bluefield. Individuals with full authority to settle the case for each party shall be present in person or immediately available by telephone.

11. Trial: Trial of this action shall be held at 9:30 a.m. on December 5, 2023, in Bluefield.

12. Mediation: Any mediation shall occur on or before September 22, 2023.

13. Failure to appear or negotiate: At least one of the attorneys for each party and all unrepresented parties participating in any conference before trial shall have authority to make decisions as to settlement, stipulations and

admissions on all matters that the participants reasonably anticipate may be discussed. Counsel and parties are subject to sanctions for failures and lack of preparation specified in Rule 16(f) respecting pretrial conferences or orders.

The Clerk of the Court is directed to send a copy of this Amended Scheduling Order to all counsel of record and to any unrepresented party.

IT IS SO ORDERED this 4th day of May, 2023.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge